

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY)
AVERAGE WHOLESALE PRICE)
LITIGATION)

MDL NO. 1456
Civil Action No. 01-12257-PBS

THIS DOCUMENT RELATES TO)
01-CV-12257-PBS AND 01-CV-339)

Hon. Patti B. Saris

**DECLARATION OF JOSEPH E. HAVILAND CONCERNING
REDACTIONS TO DEFENDANT BRISTOL-MYERS SQUIBB'S
INDIVIDUAL SURREPLY MEMORANDUM IN
OPPOSITION TO CLASS CERTIFICATION**

I, Joseph E. Haviland, declare as follows:

1. I am an associate at Dwyer & Collora LLP, attorneys for Bristol-Myers Squibb Company, Oncology Therapeutics Network Corporation and Apothecon, Inc. in the above-captioned case.

2. I submit this declaration in connection with certain redactions made to the publicly-filed version of Defendant Bristol-Myers Squibb's Individual Sur-reply Memorandum in Opposition to Class Certification. I am knowledgeable about the matters described below.

3. Pursuant to the Protective Order entered by this Court on December 13, 2002 (the "Protective Order") and in accordance with agreements reached with counsel, various party and non-party witnesses have designated certain documents, testimony, and other information produced in this litigation as either "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL." Defendant Bristol-Myers Squibb's Individual Sur-reply Memorandum in Opposition to Class

Certification contains information that has been designated “HIGHLY CONFIDENTIAL.” Pursuant to paragraph 15 of the Protective Order, any document or pleading containing quotes from, or otherwise referencing, such information shall be filed under seal.

4. On January 20, 2005, the Track One Defendants moved this Court for leave to file, *inter alia*, Defendant Bristol-Myers Squibb’s Individual Sur-reply Memorandum in Opposition to Class Certification, under seal. The Court granted the motion on January 27, 2005 and ordered that “the parties shall file public redacted versions within 10 days.”

5. Pursuant to this Court’s Order, information that has been designated “HIGHLY CONFIDENTIAL” by non-party witness, First DataBank, has been redacted from Defendant Bristol-Myers Squibb’s Individual Sur-reply Memorandum in Opposition to Class Certification, and this redacted version is being filed publicly and concomitantly with this declaration. The redactions, which are indicated by the legend “CONFIDENTIAL INFORMATION REDACTED,” contain information that First Databank has indicated is highly proprietary in nature. I have authorized the redaction of the designated confidential information in good faith and for good cause shown.

6. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

/s/ Joseph E. Haviland
Joseph E. Haviland

Dated: February 4, 2005

CERTIFICATE OF SERVICE

I, Joseph E. Haviland, certify that on February 4, 2005, I caused a true and correct copy of the foregoing document to be served on all counsel of record by electronic service pursuant to Case Management Order No. 2, in the above-captioned proceeding by sending a copy to Verilaw Technologies for posting and notification to all parties.

/s/ Joseph E. Haviland
Joseph E. Haviland